



2. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in

practitioner's statement.¹

A review of the record indicates no irregularity in the mailing of the November 16, 2005 Notices, and in the absence of any irregularity there is a strong presumption that the communications were properly mailed to the applicant at the correspondence address of record. This presumption may be overcome by a showing that the aforementioned communications were not in fact received.

Petitioner has provided adequate evidence to show that the delay in submitting the issue fee was unavoidable. Practitioner states that a search of the file jacket and docket records shows that the November 16, 2004 Notice was not received at the correspondence address of record. Practitioner has provided a copy of the docketing records where correspondence would have been entered had the November 16, 2004 Notice been received. There is no mention of the November 16, 2004 Notice. The evidence is persuasive that the delay in responding to the November 16, 2004 Notice of Allowance and Fee(s) Due was unavoidable.

The petition under 37 CFR 1.181 is **granted**. The holding of abandonment is withdrawn.

The petition under 37 CFR 1.137(a) is **dismissed as moot**.

Regarding finances, the \$250.00 petition to revive fee and the \$300.00 publication fee will be credited to deposit account no. 50-1828. Both fees are unnecessary because (1) the petition under 37 CFR 1.137(a) was dismissed as moot and (2) the application was filed with a nonpublication request.

The November 16, 2004 Notices will not be remailed with a new period set for response in the interest of avoiding further delay. It is noted that petitioner has paid the issue fee due. However, petitioner has not submitted an Issue Fee Transmittal Form (PTOL-85b). Accordingly, if petitioner desires to have the information normally found thereon printed on any future patent, the attached Fee Transmittal Form should be completed and returned to the Publishing Division within ONE MONTH from the mail date of this decision.

Copies of the November 16, 2004 Notices are included to complete petitioner's records.

After the mailing of this decision, the application file will be forwarded to Publishing Division for processing into a patent.

¹ See notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

Telephone inquiries may be directed to the undersigned at (571) 272-3230.

A handwritten signature in black ink, appearing to read "E. Shirene Willis". The signature is written in a cursive, flowing style.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

enclosures: Notice of Allowance and Fee(s) Due - November 16, 2004
Notice of Allowability - November 16, 2004.